

Governor's Blue Ribbon Water Task Force

Draft Meeting Notes

May 24-25, 2006

Attendees: Larry Blair, Conci Bokum, Brian Burnett, Frank Chaves, Wayne Cunningham, John D'Antonio, Chuck Dumars, Lisa Henne, Steve Hernandez, Bill Hume, Howard Hutchinson, Elmer Lincoln, Estevan Lopez, Paul Paryski, Jack Westman.

MRGCD Tour

Subhas Shah provided an overview of the District and how it is operated. He noted that the new assessment tool is generating more revenue.

Sterling Grogan discussed habitat restoration activities for the silvery minnow. He covered an innovative approach utilizing dead cottonwood trees buried in the bank of the river. Water passing over the logs creates a plunge pool on the downstream side. Sterling also discussed the silvery minnow sanctuary located in the Bosque, south of Bridge Blvd. Completion is anticipated for next spring.

Chuck Dumars briefed the group about legislation the district is working on, and the title issues that are being litigated with the federal government. The district is working on legislation that the government has an easement on the facilities. A copy of the 10th Circuit appeal will be on the MRGCD website soon. Bill Hume commented that the state is concerned about unintended consequences and the protection of tribal rights. The state is considering an amicus brief in the case.

David Gensler presented information on efficiency improvements in the District. He reviewed the history of automation of the system and the new programs currently being carried out.

Selection of Governor's Water Innovation Fund projects

Task force members decided to wait until the June meeting to select Water Innovation Fund projects for further review.

Strategies for promoting "The Year of Water"

Brian Burnett informed Task Force members that the 2007 Year of Water has been officially announced. Brian added that preparing for this could consume most of the Task Force's time for the remainder of the year, and that it will be important to identify the critical statewide issues so that the message is consistent. Brian also commented that it is important for New Mexico to look at the big picture and work toward the systemic prioritization of efforts that are long term and not necessarily immediately beneficial. The current mode is to direct funding and momentum to the current crisis, but New Mexico struggles with understanding how to secure a sustainable water supply.

John D'Antonio commented that passing the referendum to make Water Trust Fund a permanent fund could help the state accomplish a lot of things, and that AWRM is also very important. Other projects that John identified as being OSE/ISC priorities included the Ute project, water rights settlements, Salt basin, Gila, Navajo-Gallup pipeline, infrastructure needs to settle Indian water rights, acequias, dam safety issues, and the WATERS database.

Frank Chaves commented that the settlements need to be framed not as "Indian" water rights settlements, but rather as settlements that have benefits to all parties, including local communities. Frank added that it is important to spread out the responsibility among agencies because the settlements benefit a broad community. John agreed that it is important for the federal government to understand the broad benefits of the settlements.

John also mentioned that more work needs to be on the implementation of the state water plan. The communication and outreach has been done, but the plan needs to be updated by 2008, and several regional water planning councils need to finish or update their plans.

OSE/ISC Updates

Estevan Lopez and John D'Antonio reported that they gave a presentation to the legislative finance committee that showed the high estimate (\$294M) of the state's share of the settlements. Their presentation highlighted the rural water supply project aspects of water rights settlements. John also mentioned that he had gone to Washington D.C. to meet with agency heads, legal counsel, and the congressional delegation (Dominici, Bingaman, Wilson and Udall) about the Aamodt settlement. A New Mexico contingency of about 20 people representing parties in the Aamodt suit also traveled to D.C. John informed Task Force members that the congressional delegation wants to make sure that the cost estimates associated with the project are accurate. The OSE asked for a hearing by the end of the year on the federal/state cost share issue and to define where the water is going to come from for the settlement.

John stated that litigation with Texas and Colorado is expected to cost about \$1.5M per year. The seven basin agreement is growing more contentious by the day, and New Mexico has issues with Colorado over the hydrologic determination for the Colorado River. New Mexico would use almost the full apportionment under the Navajo settlement. Some states have overused their apportionment, while the upper basin hasn't used its full apportionment. Lower basin states are going to look at alternative means for supply, including weather modification and desalination. Estevan added that it is very important to talk about what it means for New Mexico to be at the limit of its apportionment. He explained that if there is a deficiency in the lower basin, New Mexico is supposed to share with the upper basin to make deliveries to Texas. Las Vegas wants to develop water on a tributary of the Colorado, and that is creating additional tensions.

Brian Burnett asked whether the OSE is taking an active effort in identifying areas that would be suitable for regionalization of water or wastewater. John responded that his agency needs to start looking at next steps for how to regionalize water. The uniform application process for the Water Trust Board is part of that process. John also mentioned a pilot project for three water systems that would look at different entities and how they receive funding, with the goal of understanding how the different projects could be put together. John added that there is a list of

projects, but they are not well defined. Frank Chaves suggested using the New Mexico First Town Halls as a possible example for how to bring projects together.

Howard Hutchinson mentioned that the ISC ad hoc committee made up of representatives from the state's 16 water planning regions has been working to develop a process for dealing with conflicts between state and regional water plans and conflicts between regional water planning and federal water management. That group might also be used to develop a public process or procedure for state water plan updates.

Estevan reported that the water situation on the Rio Grande is becoming critical in terms of meeting the conditions of the biological opinion. The federal agencies and state are working very hard to maintain the biological opinion but the conditions are extreme this year. Estevan added that the Pecos river lawsuit came about because Forest Guardians filed a lawsuit when the biological opinion expired. A short term biological opinion was put into place, and now the long term biological opinion has been posted in draft form. Part of the ISC's concern is in making sure that the state gets commitments from the federal government that if depletions are increased, water must be acquired through willing transactions. Estevan also stated that a review has been initiated by US F&W and NM Dept Game and Fish on the protection status of bluntnose shiner, and its status might be changed from threatened to endangered. This will have implications for compliance on the Pecos.

Eileen Grevey Hillson commented that if the bluntnose shiner is being moved from threatened to endangered status, this suggests that there is a need for mitigation dollars. Eileen noted that the Water Trust Board had applications to do work on the Pecos, but the money had to go to ESA collaborative programs and the Pecos did not have an ESA collaborative program. Eileen added that if there is a need for mitigation, an ESA collaborative might need to be formalized on the Pecos. Estevan clarified that the listing is for the state, but the US FWS is also looking at it.

Eileen asked if there were specific ideas for managing the worsening situation, and if so, how would they fit with collaborative program? Estevan replied that the ISC is in the early stages of looking at how it could operate in the future. He added that the ISC has begun discussions with the pueblos and the Middle Rio Grande Conservancy District, and plans to expand the discussions, including bringing in the Middle Rio Grande ESA Collaborative Program and other stakeholders. The ISC wants to bring people together and avoid litigation. Estevan also commented that next year could be even worse if we have another bad winter, and the ISC might end up back in consultation over ESA issues.

Estevan reported that there is interest in determining whether a project in the Salt Basin to develop a pipeline to provide water to other regions is feasible. He added that the aquifer (Otero Mesa) recharge is not well understood, but is quite large. The question at hand is whether to only capture recharge or to allow mining. Estevan added that the Salt Basin project could run into hundreds of millions of dollars to do pipelines. The initial investment of \$5-7M will be used to evaluate what the resource is and define the project. Estevan commented that the residents are very curious about what the ISC's intentions are, and have assumed the worst because they don't have any information. The ISC will need to do public outreach similar to what was done in the Gila.

Estevan also reported that an agreement has been reached for water users on Eagle Nest Reservoir. The settlement spells out who will be responsible for what, and will be signed in June.

John commented that conditions are likely to erode as summer goes on. People are running out of water and want the OSE to enforce by priority.